



**PLANNING BOARD MEETING
THURSDAY, SEPTEMBER 29, 2011**

Tom Whalen represented the owner Neil Jordan. Chairman Flood read the letter sent by Mr. Whalen to the Board. Mr. Whalen gave the Board an overview of the property. The

restaurant at this address was actively running through February of 2010. In October 2010 Mr. Jordan entered into a lease with another party and expected this party was going to work with seeking a liquor license and open the restaurant for business. There was no move made in that direction. There was a lapse of non-conforming use based on the premises of not having been conducted as a bar-restaurant for more than a year. The intention is to seek a special use permit. Mr. Whalen feels this is a hardship for the owner as no violations have been filed. Mr. Whalen then introduced Neil Wilson, President of LRC Planning Services. Mr. Whalen spoke with Mr. Wilson about a month ago outlining the problem. They went through the Code and found there are some provisions which would allow for a special use permit. This is why we are here tonight to discuss what the Board needs and submit a formal application.

Chairman Flood stated that when the new zoning was done, the restaurant was closed that is why a special use permit is needed. Because the neighbors didn't want the property zoned commercial, the only way the Town could let the property continue as a non-conforming use but didn't have a special use permit at that time. No complaints have been filed while the applicant is working with the Board to correct the problem. The applicant will need to show that the *use lapsed more than a year because the owner was prevented from continuing the grandfathered use due to strikes, acts of God, disability or other similar hardship that is beyond the applicant's control*. For purposes of reviewing this application if this was beyond the applicant's control, then the Board should review it as any special use permit and apply the same standards.

Board Discussion:

Peter Clair felt comfortable entertaining the special use permit; however felt it was unfortunate for the property owner. When Mr. Rooney and his partner wanted to open the restaurant and the Zoning Administrator was asked why the Zoning Administrator wasn't granting a special use permit, in her eyes it was still a restaurant that had not been abandoned. It is unfortunate that now Ms. Brusie is making a different decision for the special use permit. Mr. Hayes researched this and one of the rules about municipal law is that if a Zoning Administrator or Building Inspector makes an error at some point earlier, the Town does not have to own that forever going forward. A mistake can be corrected. Chairman Flood asked Mr. Whalen to send a letter to Mr. Hayes or the Board stating what is being done.

Ms. Peek asked if the tenant was opening within the time frame of the application. Mr. Wilson stated no, he can't. Peter Clair asked if the tenant was advised not to open. Mr. Whalen stated No. Don Rosendale, a neighbor stated the tenant did say he was open.

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Chairman Flood asked the application be sent to Doug Ramey.

MOTION TO SET THE ESCROW FOR COOK TIMBER HARVEST ON POPLAR HILL ROAD AT \$2500.00 was made by Peter Clair, seconded by Larry Moore

ALL IN FAVOR – MOTION CARRIED

OTHER MATTERS:

Roxbury:

Mr. Weigelt will be sent Mike Soyka's and Mary Ann Johnson's comments regarding his application. Tony Robustelli felt that there should be a comprehensive plan on the property. What are the various uses for the parcel? Nina Peek asked if Mr. Weigelt submits an application to allow the storage of materials on site, does he have to do an analysis of the whole operation on site. There should be a master plan that shows what various uses are and how they impact each other.

The Code of Ethics Booklet for 2011 was handed out to the Board.

It was mentioned that the report of the matters before the Zoning Administrator, Ms. Brusie was very helpful to the Planning Board.

MOTION TO ADJOURN THE MEETING was made by Tony Robustelli, seconded by Peter Clair

ALL IN FAVOR - MOTION CARRIED

Respectfully submitted,

Susan M. Metcalfe
Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Amenia Planning Board from a meeting held on September 29, 2011 and are not to be construed as the final official minutes until so approved.

____X____ Approved as read 11-03-2011

_____ Approved with: deletions, corrections, and additions

